

Message Text

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TO AMEMBASSY LIMA IMMEDIATE

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E.O. 11652:DECONTROL DEC. 31, 1973

TAGS: BDIS, EMIN, EIND, PE

SUBJ: CERRO PRESS RELEASE OF SEPTEMBER 24, 1973

1. CERRO RELEASED STATEMENT MORNING OF SEPTEMBER 24, 1973. FOLLOWING TEXT IS PRELIMINARY. WE WILL SEND FINAL TEXT AS SOON AS AVAILABLE.

2. BEGIN TEXT. CERRO WITHDRAWS OFFER TO SELL TO PERUVIAN GOVERNMENT. NEW YORK, SEPTEMBER 24, 1973 -- C. GORDON MURPHY, PRESIDENT OF CERRO CORPORATION, ANNOUNCED TODAY THAT THE COMPANY HAS WITHDRAWN ITS OFFER TO SELL TO THE PERUVIAN GOVERNMENT THE MINING AND SMELTING BUSINESS IN PERU OF ITS WHOLLY-OWNED SUBSIDIARY, CERRO DE PASCO CORPORATION.

3. CERRO CHARGED THE PERUVIAN GOVERNMENT WITH BAD FAITH IN NEGOTIATION. THE CORPORATION STATED THAT ON ITS OWN INITIATIVE IT HAD TAKEN ALL REASONABLE AND RESPONSIBLE STEPS TO NEGOTIATE FOR AN ORDERLY TRANSFER OF THE LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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COMPANY TO THE PERUVIAN GOVERNMENT, IN AN EFFORT TO COMPLY WITH THE PUBLICLY STATED POLICIES OF THE GOVERNMENT.

4. BEGINNING WITH A SPEECH BY PRESIDENT VELASCO ON APRIL 6, 1970, MEMBERS OF THE PERUVIAN GOVERNMENT HAVE REITERATED THEIR DESIRE TO CONTROL NATURAL RESOURCES AND

TO CAUSE INVESTMENTS EVENTUALLY TO "REVERT TO THE STATE". THE PRINCIPLES OF THE ANDEAN PACT, TO WHICH PERU IS A LEADING PARTY, INCLUDE A SIMILAR STATEMENT OF POLICY. THIS THEME HAS BEEN REPEATED ON NUMEROUS OCCASIONS, SINCE THE PRESIDENT'S UTTERANCES, IN SUCH DOCUMENTS AS THE GENERAL MINING LAW OF 1971, THE NATIONAL DEVELOPMENT PLAN FOR 1971-1975 AND OTHERS.

5. CERRO CORPORATION UNDERSTOOD THIS PHILOSOPHY AND SO INDICATED AS EARLY AS SEPTEMBER, 1970, IN AN INTERVIEW WITH BUSINESS WEEK. IN DECEMBER, 1971, CERRO PROPOSED TO THE PERUVIAN GOVERNMENT A PLAN FOR THE SALE OF CERRO DE PASCO TO THE GOVERNMENT WITH LONG-TERM PAYMENTS COUPLED WITH A MAJOR EXPANSION PROGRAM FOR WHICH CERRO WOULD ARRANGE THE FINANCING. THIS PLAN WAS LATER MODIFIED TO INCLUDE THE ALTERNATIVE OF GOVERNMENT PARTICIPATION IN PARTNERSHIP WITH CERRO IN WHATEVER RATIO OF OWNERSHIP PERU MIGHT DESIRE. CERRO THEN COOPERATED FULLY WITH A LARGE PERUVIAN COMMISSION WHICH INVESTIGATED IN EXHAUSTIVE DETAIL EVERY ASPECT OF CERRO DE PASCO, INCLUDING ITS NEW YORK BOOKS. THE COMMISSION ADVISED THAT IT FOUND NOTHING ILLEGAL OVER THE TWENTY YEARS STUDIED AND COMPILED, IN LATE 1972, A 17-VOLUME REPORT OF ITS INVESTIGATIONS. NEGOTIATIONS WERE THEN DELAYED UNTIL SEPTEMBER 13, 1973, AT WHICH TIME CERRO WAS PRESENTED WITH IMPOSSIBLE DEMANDS TANTAMOUNT TO EXPROPRIATION. COMPENSATION, IF ANY, WAS TO BE DETERMINED SOLELY BY PERU AFTER TAKE-OVER OF THE COMPANY.

6. THROUGHOUT 1973, IN SPITE OF CERRO'S OFFER TO SELL OR FORM A PARTNERSHIP AND TO EXPAND PRODUCTION VIGOROUSLY, THE COMPANY HAS BEEN PUBLICLY HARASSED IN PERU BY THE GOVERNMENT, IN A TRANSPARENT EFFORT TO LIMITED OFFICIAL USE
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LOWER THE PRICE WHICH CERRO WOULD ACCEPT. THERE HAD BEEN AN AGREEMENT BETWEEN THE PARTIES, SCRUPULOUSLY FOLLOWED BY CERRO, NOT TO NEGOTIATE IN PUBLIC AND TO CLEAR WITH THE OTHER PARTY ANY PUBLIC DISCLOSURES PRIOR TO RELEASE. PERU HAS VIOLATED THIS AGREEMENT.

7. ON AUGUST 5, 1973, IN AN INTERVIEW WITH THE FOREIGN MINISTER, MIGUEL DE LA FLOR, PUBLISHED IN THE LOS ANGELES HERALD EXAMINER, IT WAS DISCLOSED THAT PERU DIDN'T INTEND TO PAY MORE THAN DOLLARS 12 MILLION FOR THE ENTIRE INVESTMENT. THIS IS ONLY 7 PERCENT OF THE BOOK VALUE OF DOLLARS 175 MILLION; HALF OF THE

ESTIMATED 1973 NET PROFITS OF DOLLARS 24 MILLION;
ONE-THIRD OF THE ESTIMATED 1973 CASH FLOW OF DOLLARS 35
MILLION; ONE-FIFTH OF THE NET QUICK CURRENT ASSETS OF

DOLLARS 60 MILLION; AND LESS THAN HALF THE DOLLARS 27
MILLION CASH ON HAND IN PERU. THE DOLLARS 12 MILLION
FIGURE ALSO MUST BE COMPARED TO THE DOLLARS 250 MILLION
AT WHICH THE BUSINESS WAS EVALUATED BY THE REPUTABLE
AMERICAN APPRAISAL COMPANY. THE ARTICLE ALSO STATED THAT
CERRO WAS WILLING TO DEDUCT DOLLARS 130 MILLION FROM ITS
PRICE OF DOLLARS 175 MILLION FOR VARIOUS FACTORS, WHICH
IS A FALSE STATEMENT.

8. ON AUGUST 29, 1973, PRESIDENT VELASCO WAS QUOTED IN
THE NEW YORK TIMES AS HAVING STATED THAT FORCE WOULD BE
USED TO TAKE OVER CERRO DE PASCO IF NEGOTIATIONS FAILED,
AND THAT ANY COMPENSATION IN A SALE WOULD BE DETERMINED
BY THE GOVERNMENT RATHER THAN BY MUTUAL AGREEMENT. ON
SEPTEMBER 15, MINISTER OF MINES JORGE FERNANDEZ-
MALDONADO, STATED TO THE PRESS THAT BY YEAR-END CERRO
DE PASCO WOULD BELONG TO THE GOVERNMENT. THESE STATE-
MENTS WERE OBVIOUS ATTEMPTS TO INTIMIDATE THE NEGOTIATORS.

9. CERRO HAS OPERATED IN PERU FOR 71 YEARS WITH
STEADILY EXPANDING PRODUCTION, WHILE CONTRIBUTING TO THE
ECONOMY AND TO THE PEOPLE IN MANY WAYS AND ENDEAVORING
TO BE A GOOD CORPORATE CITIZEN. IT HAS DEVELOPED
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TECHNOLOGY WHICH IS WORLD FAMOUS, INCLUDING EXTRACTION
OF TWELVE DIFFERENT REFINED METALS FROM ITS COMPLEX
ORES, AND INCLUDING EFFICIENT SMELTING AND REFINING
UNDER CONDITIONS OF LOW ATMOSPHERIC PRESSURE AND LOW
OXYGEN AVAILABILITY. IT OPENED UP MINES KNOWN FOR
CENTURIES, BUT UNDEVELOPED BY OTHERS. IT CONSTRUCTED
HIGH-ALTITUDE MEDICAL FACILITIES UNSURPASSED IN THE
WORLD, TRAINED THOUSANDS OF PERUVIAN TECHNICIANS AND
EXECUTIVES AND COMPILED A SAFETY RECORD BETTER THAN
THAT OF THE UNITED STATES MINING INDUSTRY. IT EXPANDED
CAPACITY BY A MULTIPLE OF FOUR OVER THE PAST TWENTY
YEARS ALONE, AND OPENED UP ONE OF PERU'S MAJOR MINES,
COBRIZA, AS RECENTLY AS FIVE YEARS AGO. UNTIL ITS
OFFER TO SELL TO THE GOVERNMENT, ITS RELATIONS WITH
PERU HAD CONSISTENTLY BEEN HARMONIOUS.

10. THE GOVERNMENT HAS CLAIMED THAT CERRO PROVIDES
INADEQUATE HOUSING FOR ITS EMPLOYEES. THE COMPANY'S
HOUSING IS NOT ONLY IN ACCORDANCE WITH THE REQUIREMENTS
OF THE LAW UNTIL NEW STANDARDS WERE ARBITRARILY
ESTABLISHED IN MAY, 1973, BUT IT IS ALSO SUBSTANTIALLY

SUPERIOR TO THE GENERAL LEVEL OF HOUSING IN PERU. THE COMPANY HAS SPENT DOLLARS 66 MILLION ON HOUSING AND RELATED EXPENDITURES IN THE PAST TWENTY YEARS, BUT HAS NEVERTHELESS FAITHFULLY SUBMITTED A PROGRAM TO MEET THE

REQUIREMENTS OF THE NEW LAW BY INVESTING AN ADDITIONAL DOLLARS 65 MILLION OVER A FIVE-YEAR PERIOD. IN THE OPINION OF CERRO REPRESENTATIVES THE ATTACK ON ITS HOUSING IS NOT ONLY AN EFFORT TO BRING DOWN THE PRICE, BUT ALSO AN ATTEMPT TO DIVERT PUBLIC ATTENTION FROM THE GOVERNMENT'S FAILURE TO CLEAN UP THE SLUMS AROUND LIMA, AMONG THE WORLD'S WORST.

11. THE GOVERNMENT DURING THIS PERIOD ALSO DECREED MANY OTHER MEASURES INTENDED TO HARASS THE COMPANY, IN AN ATTEMPT TO LOWER THE SALE PRICE. THESE MEASURES INCLUDE THE DISCRIMINATORY INCREASE IN HOUSING REQUIREMENTS, THE TAKE-OVER OF CERRO'S UNDEVELOPED MINING CONCESSIONS, EVEN IN CONTRADICTION OF PERU'S OWN REGULATIONS, AND A SUDDEN CHANGE IN CERRO DE PASCO'S TAX LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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TREATMENT AFTER TWENTY YEARS OF OFFICIAL APPROVAL OF THE METHOD USED.

12. THE LATTER WAS ALSO DONE WITH THE OBVIOUS INTENT OF FRUSTRATING REPATRIATION OF FUNDS TO THE UNITED STATES BY CONVERSION OF SOLES TO DOLLARS. CERRO DE PASCO HAS AT THIS POINT VALID REQUESTS FOR DOLLARS 50 MILLION OF CONVERTIBILITY. AS NOTED ABOVE, IT HAS ON HAND IN PERU'S LOCAL CURRENCY THE VALUE OF DOLLARS 27 MILLION. THE PERUVIAN GOVERNMENT HAS WITHHELD APPROVAL OF ANY PROFIT REMITTANCES SINCE APRIL, 1972, AGAIN IN AN ATTEMPT TO INTIMIDATE CERRO'S NEGOTIATORS, AND IN THIS CAMPAIGN HAS USED SUCH DEVICES AS AN INTENTIONAL MATHEMATICAL ERROR AND "LOSING" FILES IN THE MINING MINISTRY.

13. AGENCIES OF THE PERUVIAN GOVERNMENT HAVE SYSTEMATICALLY TAKEN AWAY ESSENTIAL RIGHTS NEEDED TO MANAGE THE COMPANY. THE GOVERNMENT HAS ASSUMED THE SELLING OF CERRO DE PASCO'S PRODUCTS. IT HAS SUBVERTED THE FREE COLLECTIVE BARGAINING PROCESS BETWEEN CERRO DE PASCO AND THE UNIONS SELECTED BY ITS EMPLOYEES. IT HAS DIVERTED SUPPLIES OF CUSTOM ORES NEEDED TO KEEP THE CERRO DE PASCO SMELTERS FUNCTIONING AT CAPACITY. WITHIN THE PAST WEEK IT HAS REFUSED TO GRANT EXPORT LICENSES FOR CERRO DE PASCO PRODUCTS ALREADY SOLD AND WITH SHIPS IN THE PORT OF CALLAO READY TO LOAD. IT HAS ATTEMPTED TO INSERT NEW COMMERCIAL REQUIREMENTS IN ALREADY APPROVED EXPORT CONTRACTS AND IT HAS ARBITRARILY

WITHHELD DOCUMENTS ON OTHER SHIPMENTS ALREADY AT SEA.

14. IN SUMMARY, CERRO CORPORATION'S GOOD-FAITH OFFER
TO COMPLY WITH THE PERUVIAN GOVERNMENT'S STATED POLICY
OF OWNERSHIP OF NATURAL RESOURCES AND OUR EFFORTS TO

TRANSFER OWNERSHIP OF CERRO DE PASCO CORPORATION IN AN
ORDERLY MANNER HAVE BEEN MET WITH UNREASONABLE CONDI-
TIONS, WITH PUBLIC VILIFICATION AND WITH LEGAL
HARASSMENT WHICH HAVE MADE IT IMPOSSIBLE FOR THE
CORPORATION TO CONTINUE THE NEGOTIATIONS. RUSH

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